

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

GREGORY YOUNG, et al.,

Plaintiffs,

v.

WELLS FARGO & CO., and WELLS
FARGO BANK, N.A.,

Defendants.

Case No. 4:08-cv-507-RP-CFB

**PLAINTIFFS' UNCONTESTED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Come now, Plaintiffs Edward R. Huyer, Jr., Connie Huyer, Carlos Castro, and Hazel P. Navas-Castro ("Plaintiffs"), by and through their undersigned attorneys, and for their Motion for Preliminary Approval state:

1. This Motion for Preliminary Approval is made pursuant to Fed. R. Civ. P. 23.
2. By this motion, Plaintiffs seek entry of the proposed Order attached as Exhibit 2 to the accompanying Declaration of Deborah Clark-Weintraub (i) granting preliminary approval of the proposed settlement of this class action for \$25,750,000 in cash consideration; (ii) preliminarily certifying the Settlement Class for settlement purposes only, appointing Plaintiffs as representatives of the Settlement Class, and appointing Scott+Scott, Attorneys at Law, LLP and Reese LLP as Lead Class Counsel for the Settlement Class; (iii) approving the proposed notice program and permitting notice of the terms of the Settlement to be sent to the Settlement Class; and (iv) scheduling a date and time for the Final Approval Hearing to consider approval of the Settlement and related matters following an opportunity for Settlement Class Members to express their views concerning the fairness of the Settlement, the Plan of Allocation, Plaintiffs'

request for service awards, and Plaintiffs' Counsel's request for an award of attorneys' fees and reimbursement of litigation expenses.

3. Preliminary approval of the Settlement is warranted because it is fair, reasonable and adequate. The Settlement provides substantial benefits to the Settlement Class while avoiding the substantial risks and expense of further litigation.

4. In addition, the Settlement is the result of arm's-length negotiations between well-informed counsel after seven years of litigation, and was reached with the assistance of one of the country's most highly respected mediators, Hon. Arthur J. Boylan (Ret.). The use of a mediator in settlement negotiations supports the presumption of fairness and the conclusion that the settlement is free of collusion.

5. By this motion, Plaintiffs also seek preliminary certification of a Settlement Class consisting of:

All persons who have or had a mortgage serviced by Wells Fargo and owe or paid a property inspection fee between August 1, 2004 and December 31, 2013 (the "Class Period"). Excluded from the Settlement Class are Defendants, any entity in which a Defendant has a controlling interest or of which it is a parent or subsidiary, or any entity that is controlled by a Defendant, and any of Defendants' officers, directors, employees, affiliates, legal representatives, heirs, predecessors, successors, and assigns. The Settlement Class will also exclude all those who submit a timely and valid request for exclusion in accordance with the requirements set forth in the Notice.

6. The proposed Settlement Class encompasses each of the litigation Classes previously certified by the Court and satisfies the prerequisites of Fed. R. Civ. P. 23(a) and (b)(3).

7. By this motion Plaintiffs also seek approval of the proposed notice program, which includes direct mail notice, publication in the national edition of *The Wall Street Journal* and over the *PR Newswire*, and a dedicated settlement website and toll-free number, as consistent with due process and the best notice practicable under the circumstances.

8. This motion is based on the pleadings and discovery taken in this action to date.

9. Additionally, this motion is supported by the following documents, which are filed herewith:

- a. Declaration of Deborah Clark-Weintraub In Support of Plaintiffs' Uncontested Motion for Preliminary Approval of Class Action Settlement and the exhibits attached thereto; and
- b. Memorandum of Law In Support of Plaintiffs' Uncontested Motion for Preliminary Approval of Class Action Settlement.

10. Pursuant to L.R. 7.1., the parties have met and conferred in good faith concerning the subject of this motion, and Defendants do not contest the relief requested.

WHEREFORE, Plaintiffs respectfully request that this Court enter an Order:

- (A) Granting preliminary approval of the proposed Settlement;
- (B) Preliminarily certifying the Settlement Class for settlement purposes only, appointing Plaintiffs as representatives of the Settlement Class, and appointing Scott+Scott, Attorneys at Law, LLP and Reese LLP as Lead Class Counsel for the Settlement Class;
- (C) Permitting notice of the terms of the Settlement to be sent to the Settlement Class; and
- (D) Scheduling a date and time for the Final Approval Hearing to consider approval of the Settlement and related matters following an opportunity for Settlement Class Members to

express their views concerning the fairness of the Settlement, the Plan of Allocation, and Plaintiffs' Counsel's request for an award of attorneys' fees and reimbursement of Litigation Expenses.

Dated: August 21, 2015

SCOTT+SCOTT, ATTORNEYS AT LAW, LLP

/s/ Deborah Clark-Weintraub

Deborah Clark-Weintraub (*pro hac vice*)

The Chrysler Building

405 Lexington Avenue, 40th Floor

New York, NY 10174

212-223-6444

Fax: 212-223-6334

Email: dweintraub@scott-scott.com

REESE LLP

Michael R. Reese

100 West 93rd Street, 16th Floor

New York, NY 10025

212-643-0500

Fax: 212-253-4272

Email: mreese@reesellp.com

Lead Class Counsel

ROXANNE CONLIN & ASSOCIATES, P.C.

Roxanne Conlin

319 Seventh Street, Suite 600

Des Moines, Iowa 50309

515-283-1111

Fax: 515-282-0477

Email: roxlaw@aol.com

Local Counsel for Plaintiffs

STROM LAW FIRM, LLC

Mario Pacella

2110 N. Beltline Blvd., Suite A

Columbia, South Carolina 29204

803-252-4800

Fax: 803-252-4801

Email: mpacella@stromlaw.com

FINKELSTEIN, BLANKINSHIP,
FREI-PEARSON & GARBER, LLP
1311 Mamaroneck Avenue, Suite 220
White Plains, NY 10605
914-298-3281
Fax: 914-824-1561
Email: tgarber@fbfglaw.com

Additional Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2015, the foregoing document was filed with the Clerk of the Court via this Court's CM/ECF electronic filing system, and served on all counsel of record registered to receive electronic notice. Those not registered to receive such notice were served via regular first class mail.

/s/ Deborah Clark-Weintraub

Deborah Clark-Weintraub (*pro hac vice*)
SCOTT+SCOTT, ATTORNEYS AT LAW, LLP
The Chrysler Building
405 Lexington Avenue, 40th Floor
New York, NY 10174
212-223-6444
Fax: 212-223-6334
Email: dweintraub@scott-scott.com

Lead Class Counsel